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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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EXAMINER

ROBINSON, GRETA LEE

ART UNIT PAPER NUMBER

2167

DATE MAILED: 01/05/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/575,971

Applicant(s)

TRIPP ET AL.

Examiner

Greta L. Robinson

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
 - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
 - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
 - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 May 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-77 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,4,5,21,25,30,35,51 and 71 is/are rejected.
- 7) ☒ Claim(s) 2,3,6-10,22-24,26-29,31-34,36-38,52-54 and 72-77 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 29 August 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. Claims 1-77 are pending in the present application.
2. Claim 1 has been amended; and new claims 2-77 have been added.

Election/Restrictions

3. Applicant's election with traverse of Group I in the reply filed on May 13, 2004 is acknowledged. The traversal is on the ground(s) that Groups I, II, and III are classified in class 707, subclass 100; and Applicant contends that the search for Group I would be the same as the search for Groups II and III. Applicant has stated that the examiner has not submitted reasons why Group I is distinct from Groups II and III. This is not found persuasive because although Groups I, II and III are classified in the same subclass they each have different modes of operation. Group I is directed towards constructing a catalog of *object references*, Group II constructs a catalog of *file references*; while Group III is drawn towards organizing/*collecting vectors* corresponding to nontextual objects. For example, the limitation object references (Group I), file references (Group II) and collecting vectors (Group III) is not a required element in each Group.

The requirement is still deemed proper and is therefore made FINAL.

4. This application contains claims 11-20, 39-50, 55-70 drawn to an invention nonelected with traverse in the response received May 13, 2004. A complete reply to

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the final rejection must include cancellation of nonelected claims or other appropriate action (37 CFR 1.144) See MPEP § 821.01.

Drawings

5. The drawings were received on August 29, 2003. These drawings are acceptable.

Double Patenting

6. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

7. Claims 1, 4, 5, 21, 25, 30, 35, 51 and 71 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1, 4 and 5 of U.S. Patent No. 6,516,337 B1. Although the conflicting claims are not identical, they are not patentably distinct from each other because it is well settled that omission

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of elements and there functioning is an obvious expedient if the remaining elements perform the same function as before. See In re Karlson 136 USPQ 184 (CCPA 1963).

Regarding claim 1 of the present invention, "A method for constructing a catalog of object references corresponding to objects stored within a network" [note: US Patent 6,516,337 B1, claim 1 lines 1-6]; "running on each source site an agent program which processes the contents of objects stored on the source site and generates meta data for each processed object which describes the object" [note: US Patent 6,516,337 B1, claim 1 lines 7-9]; "transmitting the generated meta data from each host site to at least one cataloging site" [note: US Patent 6,516,337 B1, claim 1 lines 9-13]; "aggregating the transmitted meta data at each cataloging site to generate the catalog of object references" [note: US Patent 6,516,337 B1, claim 1 lines 10-15]. It is noted that the "program" in US Patent 6,516,337 B1 and the "agent program" of the present claim perform the same function (i.e. they run on each source site and generate or assemble meta data).

Regarding claim 4 of the present invention, "wherein transmitting the assembled meta data comprises transmitting differential meta data indicating changes in current meta data relative to previous meta data" [note: US Patent 6,516,337 B1 claim 3 lines 1-4].

Regarding claim 5 of the present invention, "wherein the agent program creates meta data only for selected objects on the source site, the selected objects selected by user input" [note: US Patent 6,516,337 B1 claim 4 lines 1-3].

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The limitations of claims 21, 25, 30 and 35 recite similar limitation as noted in claims 1 and 4; therefore they are rejected under the same rationale.

Regarding claim 51 of the present invention, "receiving at the cataloging site, metadata about objects stored on each source site, the meta data generated by an agent program stored on each site" [note: US patent 6,516,337 claim 2 lines 1-4; also note claim 1 lines 1-10].

Regarding claim 71 of the present invention, "A computer-readable medium containing computer-executable instructions for constructing a catalog of object references about objects stored on a source site in a network, the network including a plurality of sites, the objects on the source site not being accessible to other sites on the network, the computer-executable instructions operable for: generating meta data corresponding to the contents of objects on the source site" [note: US Patent 6,516,337 B1 claim 15 lines 1-8]; and

"assembling said meta data to construct a catalog of object references" [note: US Patent 6,516,337 B1 claim 15 lines 9-10].

Claim Rejections - 35 USC § 102

8. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

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9. Claim 71 is rejected under 35 U.S.C. 102(b) as being anticipated by Maudlin US Patent 5,748,954.

Regarding claim 71, Maudlin teaches a computer-readable medium containing computer-executable instructions for constructing a catalog of object references about objects stored on a source site in a network, the network including a plurality of sites, the objects on the source site not being accessible to other sites on the network, the computer-executable instructions operable for: generating meta data corresponding to the contents of objects on the source site [note: "constructing a catalog of files stored on a network" abstract; catalog figure 3]; and

assembling said meta data to construct a catalog of object references [note: note col. 1 lines 11-13; col. 5 lines 18-51 "a catalog of files may be built in a row-like hierarchy"; and col. 8 lines 43-56].

Response to Arguments

10. Applicant's arguments with respect to claims 1-77 have been considered but are moot in view of the new ground(s) of rejection.

Applicant argues that Maudlin does not teach *generating any information at the interconnected computer location prior to transmitting any information back to a cataloging computer*. In response to Applicant's argument it is noted that this limitation does not appear in newly added claim 71. Claim 71 recites "assembling said meta data

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to construct a catalog” which Maudlin teaches at col. 5 lines 18-51 “a catalog of files may be built in a row-like hierarchy” and cited supra.

Conclusion

11. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).


A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Greta L. Robinson whose telephone number is (571) 272-4118. The examiner can normally be reached on Mon.-Fri. 9:30AM-6:00PM.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John E. Breene can be reached on (571) 272-4107. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



GRETAL ROBINSON
PRIMARY EXAMINER

Greta Robinson
Primary Examiner
December 28, 2004